

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 108 OF 1996

Smt. Sheel Arora
of Bombay

.. Petitioner.

V/s.

1. Madan Mohan Bajaj of Gwalior,
& Ors

.. Respondents.

Mr. A.J.Almeda i/by Vigil Juris for the Petitioner.

Mr.G.B.Kedia for the the Respondents 1 to 3.

Mr.R.S.Khadapkar, AGP for the Respondent No.4.

CORAM : S. A. BOBDE, J.

DATED : 09th JULY, 2007.

P.C. :-

. The petitioner has moved this court, complaining of a breach of orders of the Co-operative Court dated 15.01.1992 and 14.01.1994. By these orders, the Co-operative Court had initially directed the parties to maintain status-quo in respect of the title of the property in dispute and thereafter, recorded the no objection of the Advocate for the Respondent No.1 to continue the status-quo as regards the title of the property in dispute.

2. The property in dispute before the Co-operative Court was Flat No.3, on the 2nd floor in the building known as Sky Scrapper 'B' Wing, situate at Bhulabhai Desai Road, Bombay -400 026.

3. The petitioner is one of the two wives of the respondent No.3- Harilal Arora, who died on 22nd May, 1999. Mr. Almeda, the learned counsel for the petitioner had sought permission to delete the said respondent, which permission has been granted to him.

4. The respondent No.1 Madan Mohan Bajaj is the brother in law of late Harilal Arora, being the brother of the first wife of the deceased Hiralal Arora. The respondent No.2 is the son of Harilal Arora through his first wife.

5. Apparently, 50% share was claimed by the respondent No.1 Madan Mohan Bajaj and the petitioner, who is the second wife of the deceased in the suit property. In this dispute the aforesaid order, maintaining status-quo as to the title, as recorded by the court, was in operation. Even though there was such an order, the respondent No.1 executed a gift deed dated 22.02.1995 in favour of the deceased. The act of the execution of the deed is in breach of the order of the

court. It must be, however, noted that the respondent No.1 has thereafter on realising his mistake executed the deed of cancellation dated 07.08.1996 and has cancelled the gift deed. This court is not concerned here with the legal effect of the cancellation of the gift deed since according to the learned counsel for the petitioner, the cancellation has been adjudged to be of no effect. However what appears to be the complete picture is that on realising that the execution of the gift deed since resulted in the breach of the order of the Co-operative Court, the said respondent tried to undo its execution. It does appear, as argued by the learned counsel for the respondents, that this gift deed was executed as part of transaction within the same family even though the family members may not be on good terms with each other. The effect of the gift deed was that the 50% share which was held by the respondent No.1 would have been transferred to the respondent No.3, since deceased, so that the flat thereafter would have been owned by the respondent No.3 and the petitioner. It does appear to be the fact that the this contempt proceedings have been initiated because of the acrimonious relationship between the petitioner and her deceased husband and the relatives of the first wife of the deceased.

6. As observed earlier, the gift deed has been cancelled and the respondent No.1 has tendered an unconditional apology to this court for the said act. Having regard to the circumstances of the case, the relationship of the parties and the subsequent conduct of the respondent No.1, I consider it appropriate in the interest of justice to accept unconditional apology of the respondent No.1 and discharge the contempt proceedings. Accordingly, the contempt proceeding is hereby discharged.

7. Rule disposed of accordingly.

(S.A.BOBDE, J.)

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